IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 363 OF 2004

IN

SUIT NO. 4339 OF 1995

Shri Kuldipkumar J. Kapoor ... Plaintiffs.

vs.

Legal Heirs of Jogindarnath

Harichand Kapoor & Ors. ... Defendants.

Mr. C.S. Joshi for plaintiffs.

None for defendant no.3.

CORAM : S.U. KAMDAR,J.

DATE : 9th FEBRUARY, 2005.

P.C.

1. The present chamber summons is for taking the written statement on record and for setting aside the order dated 9.3.2001 passed by the Prothonotary and Senior Master, High Court, Bombay for proceeding the matter ex-parte.

2. The learned Advocate for the plaintiffs

states that the present chamber summons should be dismissed as the sole motive of the defendant no. 3 is to protract the trial. He further states that part evidence is also recorded. However, I am of the opinion that in the interest of justice defence of the 3rd defendant should not be shut out. The decree has not yet been passed. In view thereof, the chamber summons is made absolute in terms of prayer clauses (a), (b) and (c) . The defendant no. 3 is directed to pay the costs of the chamber summons to the plaintiff quantified at the sum of Rs. 5000/-